

Decision 00-04-023 April 06, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Kern County Roads Department to convert a private at grade crossing at the tracks of the Union Pacific Railroad Co. (Operated by the San Joaquin Valley Railroad) to a public at grade crossing in the County of Kern State of California

Application 99-11-011
(Filed November 5, 1999)

OPINION

County of Kern (County) requests authority to convert the existing private at-grade crossing to a public at-grade crossing at Tracy Avenue across Union Pacific Railroad Company's (UP) Buttonwillow Branch Line track at the Bowerbank Station, in Kern County. San Joaquin Valley Railroad Company (SJVR) operates trains and leases the tracks.

The proposed Tracy Avenue public at-grade crossing is necessary to provide improved public access to the new Rio Bravo Tomato Company facility industrial area south of State Route (SR) 58. The proposed crossing will be the only public at-grade crossing between the Interstate (I) 5 Freeway grade separation and Wasco Way Crossing, located 1.2 miles to the east and 1.6 miles to the west, respectively, of the existing private crossing. The anticipated average annual daily traffic volume is 400 and the existing train traffic is two per day on the branch line.

County is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Section 21000, et seq. County has determined that this project, the

conversion of an existing private at-grade crossing to a public at-grade crossing, is categorically exempt from the reporting requirements of CEQA under PR Code Section 21080.13.

The Commission is a responsible agency for this project under CEQA and also has reviewed and considered the lead agency's exemption determination. The existing private at-grade crossing and adjacent areas have been inspected by the Commission's Rail Safety and Carriers Division – Rail Crossings Engineering Section Staff. Staff examined the need for and the safety of the proposed public at-grade crossings and recommends that County's request be approved.

The application was found to be in compliance under the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure which relate to the construction of public highways across railroad tracks. A location map and detailed drawings of the proposed public at-grade crossing are shown in Appendix A.

In Resolution ALJ-176-3027 dated November 22, 1999, the Commission preliminarily categorized this application as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ-176-3027.

By letter dated January 27, 2000, County stated that an accelerated schedule is needed to allow construction of the crossing improvement prior to opening of a new industrial facility south of SR 58. The new facility is an agricultural processing plant, the operation of which is dictated by seasonal harvesting periods. County anticipates that a significant volume of truck and automobile traffic will begin utilizing the proposed public at-grade crossing by

June 15, 2000. Based on the above facts and objectives, County requested that the usual 30-day effective date on an order be waived. We will make our order effective immediately.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code Section 311 (g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on November 9, 1999. No protests have been received. A public hearing is not necessary.

2. County requests authority, under Public Utilities Code Sections 1201 - 1205, to convert the existing private at-grade crossing to a public at-grade crossing at Tracy Avenue across UP's Buttonwillow Branch Line track at the Bowerbank Station, in Kern County. SJVR operates trains and leases the tracks.

3. Conversion of the existing private at-grade crossing to the proposed Tracy Avenue public at-grade crossing is necessary to provide improved public access to the new Rio Bravo Tomato Company facility industrial area south of SR 58.

4. Public convenience and necessity require converting the existing private at-grade crossing to a public at-grade crossing.

5. Public safety requires the installation of two Standard No. 9 automatic gate-type signals (General Order (GO) 75-C) with additional flashing lights facing westbound and eastbound vehicular traffic on SR 58.

6. County is the lead agency for this project under CEQA, as amended.

7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's exemption determination.

Conclusions of Law

1. Under Public Resources Code Section 21080.13, the activity is statutorily exempted from the requirements set forth in CEQA; therefore the guidelines (14 Cal. Admin. Code - Division 6) concerning the evaluation of projects and the preparation and review of environmental documents do not apply.
2. The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. County of Kern (County) is authorized to convert the existing private at-grade crossing to a public at-grade crossing at Tracy Avenue across Union Pacific Railroad Company's (UP) Buttonwillow Branch Line track at the Bowerbank Station, in Kern County, at the location and substantially as shown by the plans attached to the application and Appendix A of this order, to be identified as Crossing BT-343.5. San Joaquin Valley Railroad Company (SJVR) operates trains and leases the tracks.
2. Clearances shall be in accordance with General Order (GO) 26-D. Walkways shall conform to GO 118.
3. Construction of the public at-grade crossing shall be equal or superior to Standard No. 8 (concrete slabs) of GO 72-B. Maintenance of the crossing shall conform to GO 72-B.
4. Protection at the at-grade crossing shall be two Standard No. 9 automatic gate-type signals (GO 75-C) with additional flashing lights facing westbound and eastbound vehicular traffic on State Route (SR) 58.

5. Construction expense of the crossing and installation cost of the automatic protection shall be borne by County.

6. Maintenance cost of the automatic protection shall be shared equally by County and SJVR.

7. Within 30 days after completion of the work under this order, County shall notify the Commission in writing that the authorized work has been completed.

8. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. The Application is granted as set forth above.

Application 99-11-011 is closed.

This order becomes effective today.

Dated April 06, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners



